

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

ROBERT C. BOLUS, SR.,

Plaintiff,

v.

BRIAN BOLUS,

Defendant.

CIVIL ACTION NO. 3:24-cv-02117

(SAPORITO, J.)

**ORDER**

Now before the court is a report and recommendation of United States Magistrate Judge Martin C. Carlson, in which he recommends that this action be involuntarily dismissed with prejudice for failure to prosecute, pursuant to Fed. R. Civ. P. 41(b).<sup>1</sup> Doc. 13.

No objections have been filed to the report and recommendation,

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<sup>1</sup> Judge Carlson concurrently recommends that the defendant's Rule 12(b)(6) motion to dismiss for failure to state a claim be granted. In light of our dismissal for failure to prosecute, however, we will instead deny the motion to dismiss as moot. We note, however, that the defendant's arguments in favor of dismissal generally appear to be well taken. Although the pro se complaint in this action is no model of clarity, it appears to seek to relitigate a property dispute already adjudicated to a final order in state court, which would support an affirmative defense of res judicata (claim preclusion), or possibly collateral estoppel (issue preclusion)—the defendant's brief refers to both doctrines. *See generally Lykens v. Peters*, No. 4:24-cv-00729, 2025 WL 942841, at \*1–2 (M.D. Pa. Mar. 28, 2025) (discussing res judicata and collateral estoppel doctrines).

resulting in the forfeiture of de novo review by this court. *See Nara v. Frank*, 488 F.3d 187, 194 (3d Cir. 2007); *Henderson v. Carlson*, 812 F.2d 874, 878–79 (3d Cir. 1987).

Following an independent review of the report and the record, and having afforded “reasoned consideration” to the uncontested portions of the report, *E.E.O.C. v. City of Long Branch*, 866 F.3d 93, 99 (3d Cir. 2017), we are satisfied “that there is no clear error on the face of the record,” Fed. R. Civ. P. 72(b) advisory committee note to 1983 amendment. We find Judge Carlson’s analysis with respect to failure to prosecute to be well-reasoned and fully supported by the record and applicable law. Accordingly, the court will adopt the report and recommendation with respect to dismissal under Fed. R. Civ. P. 41(b) as the decision of the court.

Accordingly, **IT IS HEREBY ORDERED THAT:**

1. The report and recommendation of Judge Carlson (Doc. 13) is **ADOPTED in part and NOT ADOPTED in part**—the report is **ADOPTED** with respect to the recommendation that this action be dismissed with prejudice for failure to prosecute under Fed. R. Civ. P. 41(b), and the report is **NOT ADOPTED** with respect to the recommendation that the defendant’s motion to dismiss also be granted;

2. This civil action is **DISMISSED** with prejudice for failure to prosecute, pursuant to Fed. R. Civ. P. 41(b);

3. The defendant's motion to dismiss (Doc. 7) is **DENIED as MOOT**;

4. Any appeal from this order is deemed to be frivolous and not taken in good faith, *see* 28 U.S.C. § 1915(a)(3); and

5. The clerk shall mark this case as **CLOSED**.

Dated: May 20, 2025

*s/Joseph F. Saporito, Jr.*  
JOSEPH F. SAPORITO, JR.  
United States District Judge